

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBIN CARTER,)
)
Plaintiff,)
)
v.) Civil Action No. 2:21-cv-305
)
UPMC PRESBYTERIAN SHADYSIDE,)
d/b/a UPMC SHADYSIDE,)
)
Defendant.)

NOTICE OF REMOVAL

TO: Department of Court Records
Court of Common Pleas of Allegheny County, PA
City-County Building
414 Grant Street
Pittsburgh, PA 15219

David M. Kobylinski, Esquire
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Praetorian Law Group, LLC
515 Court Place, Suite 4
Pittsburgh, PA 15219
Counsel for Plaintiff, Robin Carter

KINDLY TAKE NOTICE that, in accordance with 28 U.S.C. §§ 1441 and 1446, Defendant, UPMC Presbyterian Shadyside, by its counsel, and without waiving any claim of lack of service, removes this case to the United States District Court for the Western District of Pennsylvania and in support thereof states as follows:

1. Plaintiff Robin Carter, through her counsel, initiated this lawsuit in the Court of Common Pleas of Allegheny County, Pennsylvania at Case Number GD-19-008599 by filing a Praecept for Writ of Summons on June 13, 2019.

2. Ms. Carter subsequently filed a Complaint on February 8, 2021.

3. Ms. Carter has filed no other pleadings on the docket in this matter, other than the Praeclipe for Writ of Summons and the Complaint.

4. Ms. Carter served the Complaint by mailing it on February 8, 2021, and UPMC Presbyterian Shadyside received it on February 10, 2021.

5. Prior to receiving the Complaint, UPMC Presbyterian Shadyside did not have notice of the federal questions involved as Ms. Carter's Praeclipe for Writ of Summons did not name any federal (or any other) causes of action.

6. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, orders and other papers on file with the Court of Common Pleas of Allegheny County, Pennsylvania are attached as **Exhibit 1** (Plaintiff's street address redacted).

7. This Notice of Removal is filed within thirty (30) days of the first day on which any Defendant was served with the initial pleading setting forth the claim for relief upon which such action or proceeding is based (here, the Complaint) as required by 28 U.S.C. § 1446(b), and is therefore timely.

8. Removal is proper because the Complaint alleges federal questions; the Complaint includes six counts - five of which arise under federal law, namely, that Defendant violated the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12111, *et seq.* (Counts One and Two of the Complaint); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a) (Count Three of the Complaint); the Age Discrimination in Employment Act ("ADEA"), 29 USC § 623 (Count Five of the Complaint); and the Family and Medical Leave Act ("FMLA"), 29 U.S.C. §§ 2601-2654 (Count Six of the Complaint).

9. Defendant may remove this action to this federal court pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1446(b) because Plaintiff's allegations concern questions of federal law, and federal courts have original jurisdiction of this matter pursuant to 28 U.S.C. § 1331.

10. The Court of Common Pleas of Allegheny County is located within the Western District of Pennsylvania. Therefore, venue is proper in this court because it is "the district court for the United States for the district and division embracing the place where such action is pending." *See* 28 U.S.C. § 1441(a).

11. No proceedings have occurred before the Court of Common Pleas. The pleadings of record include the Praecept for Writ of Summons filed June 13, 2019, the Sheriff's Return filed on July 8, 2019, Praecept for Appearance on behalf of the Defendant UPMC Presbyterian Shadyside on July 24, 2019, and Complaint in Civil Action on February 8, 2021. A true and correct copy of the docket before the Court of Common Pleas of Allegheny County, Pennsylvania is attached as **Exhibit 2**. (Plaintiff's street address redacted).

12. This removal is without waiver of any objections Defendant may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendant intends no admission of fact, law or liability, and expressly reserves all defenses, motions, and pleas.

13. Written notice of this Notice of Removal will be served promptly upon Plaintiff's counsel of record in accordance with 28 U.S.C. § 1446(d).

14. A true and correct copy of this Notice of Removal will also be filed promptly with the Department of Court Records of the Court of Common Pleas of Allegheny County, in accordance with 28 U.S.C. § 1446(d), as an attachment to Defendant's Notice of Removal.

15. In the event that the Plaintiff seeks to remand this case, or the Court considers remand *sua sponte*, Defendant respectfully requests the opportunity to submit additional arguments or evidence in support of removal.

WHEREFORE, Defendant, UPMC Presbyterian Shadyside, gives notice that this action is removed from the Court of Common Pleas of Allegheny County to the United States District Court for the Western District of Pennsylvania.

Dated: March 5, 2021

SCHNADER HARRISON SEGAL & LEWIS LLP

By: /s/ Karen Baillie
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*Counsel for Defendant, UPMC Presbyterian
Shadyside*

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March, 2021, a true and correct copy of the foregoing **NOTICE OF REMOVAL** was served upon the following, Via Electronic Mail and U.S. First-Class Mail, postage prepaid:

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/s/ Karen Baillie

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